

Denied and Opinion Filed January 9, 2018



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-01474-CV

IN RE VENKY VENKATRAMAN, Relator

Original Proceeding from the 255th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DF-04-11968

MEMORANDUM OPINION

Before Justices Bridges, Lang-Miers, and Fillmore
Opinion by Justice Bridges

In this original proceeding, relator complains that the trial court did not sign an order on his Motion to Clarify Final Orders, which was heard on December 15, 2017. In the motion to clarify, relator asked the trial court to confirm a possession schedule for his youngest daughter in accordance with this Court's August 30, 2017 opinion on rehearing in a prior appeal. We deny the petition for writ of mandamus.

“ ‘When a motion is properly filed and pending before a trial court, the act of giving consideration to and ruling upon that motion is a ministerial act,’ and mandamus may issue to compel the trial judge to act.” *Safety-Kleen Corp. v. Garcia*, 945 S.W.2d 268, 269 (Tex. App.—San Antonio 1997, orig. proceeding). To obtain mandamus relief for the trial court's refusal to rule on a motion, a relator must establish: (1) the motion was properly filed and has been pending for a reasonable time; (2) the relator requested a ruling on the motion; and (3) the trial court refused to rule. *In re Buholtz*, No. 05-16-01312-CV, 2017 WL 462361, at *1 (Tex. App.—

Dallas Jan. 31, 2017, orig. proceeding); *Crouch v. Shields*, 385 S.W.2d 580, 582 (Tex. App.—Dallas 1964, writ ref'd n.r.e.). The trial court is also entitled to a reasonable time in which to rule. *In re Craig*, 426 S.W.3d 106, 107 (Tex. App.—Houston [1st Dist.] 2012, orig. proceeding); *In re Sarkissian*, 243 S.W.3d 860, 861 (Tex. App.—Waco 2008, orig. proceeding). It is relator's burden to provide the court with a record sufficient to establish his right to relief. *Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992); TEX. R. APP. P. 52.3(k), 52.7(a)

Here, the trial court heard the motion to clarify and mother's motion for judgment nunc pro tunc or to reform judgment on December 15, 2017. The trial court granted the motion for judgment nunc pro tunc and signed an "Order in Suit Affecting the Parent-Child Relationship Nunc Pro Tunc" on December 15, 2017. In the nunc pro tunc order, the trial court set out a possession schedule for relator as to both children and, therefore, provided the relief requested in the motion to clarify. To the extent relator seeks a separate order on his motion to clarify, the trial court has not been given a reasonable time in which to sign such an order and relator has not presented a record showing that he has requested an order from the trial court. Relator is, therefore, not entitled to mandamus relief. Accordingly, we deny relator's petition for writ of mandamus.

/David L. Bridges/
DAVID L. BRIDGES
JUSTICE

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